

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA

vs.

5:16-CR-339

5:16-cr-340

CLIF J. SEAWAY,

Defendant.

-----x  
*Sentencing - May 5, 2018*

James Hanley Federal Building, Syracuse, New York

HONORABLE NORMAN A. MORDUE

United States District Judge, Presiding

A P P E A R A N C E S

For Government: OFFICE OF THE UNITED STATES ATTORNEY  
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NORTHERN DISTRICT OF NEW YORK  
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3 THE COURT: Will the Clerk please call the case and  
4 have counsel note their appearance for the record?

5 THE CLERK: 2016-cr-339 and 2016-cr-340, United  
6 States of America versus Clif Seaway. Please note your  
7 appearances for the record.

8 MS. FLETCHER: Lisa Fletcher and Carina  
9 Schoenberger for the United States. Good afternoon.

10 THE COURT: Good afternoon, Counsel.

11 MS. BIANCO: Good afternoon, Your Honor. Randi  
12 Bianco.

13 MS. MCKEON: Good afternoon, Your Honor. Courtenay  
14 McKeon for the defendant Clif Seaway.

15 THE COURT: Mr. Seaway, your case is on for  
16 sentencing at this time.

17 Let me first inquire of counsel. Do counsel have  
18 the Presentence Report that was dated March 12, 2018, revised  
19 April 10, 2018, and the addendum dated April the 10th, 2018?

20 MS. FLETCHER: Yes, Your Honor.

21 MS. BIANCO: Yes, Your Honor.

22 THE COURT: Did you share it with your client?

23 MS. BIANCO: I did.

24 THE COURT: Did you get copies of the letters the  
25 Court received?

MS. BIANCO: Yes, sir.

THE COURT: Are there any objections by the

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1 government to the facts as stated in the Presentence Report?

2 MS. FLETCHER: No objection.

3 THE COURT: Defense?

4 MS. BIANCO: We've already set forth our  
5 objections.

6 THE COURT: Are there any objections to the offense  
7 level calculations in the Presentence Report?

8 MS. FLETCHER: No objection.

9 THE COURT: The defense?

10 MS. BIANCO: No, Your Honor.

11 THE COURT: And do you agree with the criminal  
12 history computation set forth in the PSR?

13 MS. FLETCHER: Yes.

14 MS. BIANCO: Yes, sir.

15 THE COURT: I'm ready to proceed with the  
16 sentencing. Does the government move sentence?

17 MS. FLETCHER: Yes, we do.

18 THE COURT: Do you wish to be heard?

19 MS. FLETCHER: Yes, Your Honor.

20 THE COURT: Go ahead.

21 MS. FLETCHER: Your Honor, before I speak, two of  
22 the victims in this case would like to address the Court.

23 THE COURT: Okay.

24 MS. FLETCHER: First SS.

25 THE COURT: Good morning.

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1 SS: Good morning.

2 THE COURT: What would you like to tell me?

3 SS: I have been -- I haven't been able to see any  
4 of my biological family for two years and this is the first  
5 time that I've been able to see anybody from my family. And  
6 this whole thing has just torn me and my siblings apart. I  
7 have not spoken to any of them since 2016. And I just, every  
8 night I'm very broken down by this because I miss my siblings  
9 very much and I just -- I don't know why this happened or why  
10 this was even going on, and I just want him to realize that  
11 he broke me very much. He broke me emotionally, physically,  
12 and I still hear his voice in the back of my head.

13 And I just -- I'm very self conscious about my  
14 body. I don't have very good relationships with males at  
15 all. I am very stingy to touches. Just I've been tested for  
16 every kind of disorder that you can probably think of. I am  
17 receiving counseling right now and it's just been horrible to  
18 go through this. And I am not very good with my emotions, so  
19 it's been hard to talk about it for me because I just, I want  
20 it to be over with.

21 It happened for so long that it felt normal for me.  
22 And whatever apology that he thinks will make up for it, it  
23 won't. I'm -- I don't even call him my dad anymore. And I'm  
24 very sensitive to people's emotions, but he used me, he  
25 abused me, and I was a possession to him. And I know that

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1 this would be my only time to speak what I was really feeling  
2 and --

3 THE COURT: You sent me a letter too, right?

4 SS: Yes, sir. And I'm currently on the verge of  
5 being adopted right now and my new family is so much better  
6 than my old one. And I'm very happy right now. And it's not  
7 the kind of happy that I was there because I didn't really  
8 know what happy was. And I have amazing support going  
9 through this and I just -- I can't thank the people enough  
10 who have been working on this case or who have been through  
11 all of it with me, and I have so much respect for them and  
12 everybody who has been working for this.

13 And I just wish that I could speak to my other  
14 siblings about this because I miss them and I just wish it  
15 didn't tear our family apart like it did. And whatever is  
16 going to happen today, he deserves it. I will never be able  
17 to explain what he did to me because it just -- it was that  
18 bad. He just put me through so much and just made me feel  
19 horrible about myself. And I don't know how a parent could  
20 look a child in the face, know that this is going on and  
21 still say that they love them because that's not what love is  
22 at all.

23 I don't know the meaning of family because of this.  
24 I've been very broken down about this lately and still every  
25 day in the back of my head saying everything that they used

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1 to or yelling at me or even just the thought of them, and I  
2 just, I want them to get what they deserve fully and truly.  
3 Thank you.

4 THE COURT: Thank you. Good luck to you.

5 MS. FLETCHER: Judge, SV would also like to address  
6 the Court.

7 THE COURT: Good afternoon.

8 SV: Good afternoon. Just give me one second.

9 THE COURT: Sure.

10 SV: A lot of people have asked me if I'm excited  
11 for this day, if I'm happy for all of it to be over, wishing  
12 that I could get some closure.

13 I would just like to stress to the Court that these  
14 kinds of crimes don't come with closure. After today it's  
15 not like I can shut the book on what happened to me or this  
16 experience. I will carry this pain with me for the rest of  
17 my life and no amount of apologies or words could change  
18 that. Clif took something away from me when I was a child  
19 that could never be replaced. He took my experiences. He  
20 took my innocence. And for that there is nothing that can be  
21 done.

22 I am glad that the court part of this will be done  
23 after today. And I'm thankful for Lisa Fletcher and the  
24 consideration the Court has given to this case. But I ask  
25 that you keep in mind the longevity of these kinds of

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1 offenses the next time you get a case like this and right  
2 now. Even though it's over for all of us after today, it's  
3 not over for those of us that had to live through it. Thank  
4 you.

5 THE COURT: Thank you.

6 THE COURT: Ms. Fletcher.

7 MS. FLETCHER: Thank you, Judge.

8 Judge, I think it's apparent from the evidence in  
9 this case, from the testimony you just heard, the statements  
10 of the victims, from the evidence that was adduced at trial  
11 that Clif Seaway ran his home like a house of horrors.  
12 Children were groomed from an early age, even from infancy,  
13 to engage in sexual acts with Clif Seaway, with Tammy Martin,  
14 with Tammy Lamere, and they were groomed to pose for the  
15 camera.

16 The children involved in this case were never  
17 treated like children. They never had a chance to enjoy the  
18 innocence of childhood. Instead, they were used to satisfy  
19 Clif Seaway's sexual perversions. To this day and for the  
20 rest of their lives these children will suffer that the  
21 memories of their childhood are overshadowed by acts of  
22 sexual abuse and by the memory of Clif Seaway's touch.  
23 Nothing can bring that reality into better focus than the  
24 victim impact statement written by SV, which so compellingly  
25 explains the devastation the defendant has wrought.

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1           It's in the submissions that the defendant tries to  
2 argue that he is remorseful and that he accepts  
3 responsibility. To prove that he says that's demonstrated by  
4 his offer to plead guilty to a binding agreement for a thirty  
5 year sentence. But what that really means is that he is  
6 conditionally remorseful and he was conditionally offering to  
7 accept responsibility, but only on his own terms. He wanted  
8 to be in control of his sentence just as he controlled  
9 everything else in his life, and most notably the children.

10           As SV so eloquently explained in her statement to  
11 the Court, "That's what he thought he deserved. But I  
12 thought about all the times Clif woke me up with his head  
13 between my legs. I thought about all the times he asked me  
14 if he was hurting me. I thought about all the times my  
15 stomach turned with fear when he called my name. I still  
16 wake up screaming, afraid he is going to creep in my room and  
17 see me again. I'm 21 years old and I haven't slept in the  
18 dark since I was five years old."

19           Just because the government did not, would not,  
20 could not agree to bind the Court to a sentence of the  
21 defendant's choosing, under these facts and in this kind of  
22 case does not mean that there were no other options available  
23 to him. He could have pled guilty any day, any time without  
24 a guaranteed sentence. But he was not willing to be that  
25 remorseful, to accept that kind of responsibility or to take

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1 that chance.

2                   And while the children closest to Clif Seaway  
3 suffered the brunt of his abuse, he did not spare those  
4 children who spent even a night or two in his presence.  
5 Imagine allowing your child to spend the night with a friend  
6 only to some years later have the police show up at your door  
7 and ask you to identify her in disgusting filthy images taken  
8 while she slept.

9                   NG and KS came into this courtroom and identified  
10 their children in those pictures. And they told the jury and  
11 they told this Court how devastating those acts committed  
12 upon their children by this defendant, how devastating they  
13 have been against their children and how devastating they  
14 have been for their families.

15                  Imagine, too, if you will, a child groomed from  
16 infancy to engage in oral and vaginal sex with this man. A  
17 child who knowing nothing more in her life had the  
18 wherewithal to know that that was wrong and to finally put a  
19 stop to it just shy of her tenth birthday. That child, SS,  
20 has a childhood photo album that includes over 6,000 sexually  
21 explicit images taken of her by the defendant, images and  
22 videos of her engaged in vile acts with a vile man, images  
23 and videos taken on over 400 separate days of her childhood  
24 and cataloged for easy access by age and sex act. The images  
25 and videos produced here at trial are but a minuscule

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1 fraction of what this man produced, of what he did, and of  
2 who he is.

3 Now the defense can argue all day that this was  
4 never about the pictures, the thirteen years worth of  
5 pictures, the thousands and thousands and thousands of  
6 pictures, all cataloged in a complex system of file folders.  
7 But the evidence does not support that theory, the law does  
8 not support that theory, and the jury didn't buy it. That  
9 theory ignores also the uncharged conduct, the tens of  
10 thousands of images of child pornography including of infants  
11 and toddlers that Clif Seaway downloaded from the internet  
12 and added to his collection.

13 I would like to offer a few words on the  
14 defendant's other attempts at mitigation. They fall far  
15 short of providing any compelling reason to justify leniency.  
16 The defendant was a victim of childhood abuse or he wasn't.  
17 There's no way to know the truth of that allegation. The  
18 government has no way of knowing. The Court has no way of  
19 knowing. His sister refutes it. And he never mentioned it  
20 in the nine hours he spent in the police interview following  
21 his arrest. He disclosed that only in anticipation of  
22 mitigation.

23 Even if it is true, it doesn't excuse what he did  
24 and it does not mitigate what he did. At the end of the day,  
25 to quote his own psychologist, "He knew what he was doing was

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1 wrong but he did it anyway." And that is the only usable  
2 take-away from the self-serving psychological evaluation  
3 proffered by the defense in this case, which is in all other  
4 respects entirely useless.

5 The report done seven months before trial and  
6 without benefit of the trial evidence is based entirely on a  
7 self-reported history from the defendant, incomplete reports  
8 from the case, and an examiner who did not even view the nine  
9 hour videotaped confession, any of the images or videos that  
10 the defendant produced, his cataloging system, nor did he  
11 hear the statements of the victims, review their testimony,  
12 their statements. And the report, the psychological report  
13 accepts as true Seaway's pathetic attempt to blame his  
14 actions on Tammy Martin. And then it concludes with  
15 generalized and meaningless statements that are completely  
16 unhelpful, especially to a Court that has seen the evidence  
17 and the witnesses on the stand the first time.

18 Judge, the guidelines here are 360 years. But the  
19 question before the Court must really be and what the Court  
20 must really decide is whether to imprison Clif Seaway for the  
21 rest of his life or not. Outside of that is just math; 60,  
22 100, 360, it all ends up the same, Clif Seaway will never be  
23 free to harm another child again, and that's the point as  
24 well it should be.

25 Punish the defendant for what he has done. Deter

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1 others who may be of the same ilk, but most of all protect  
2 society, protect its children from a man who sees them as  
3 nothing more than a means to satisfy his own sick, twisted  
4 compulsion.

5 Judge, with that goal in mind, a life sentence is  
6 simply the only just result here. So what is the difference  
7 in the end between 60, 100, or 360 years? The difference is  
8 a statement. A statement to the defendant, a statement to  
9 his victims, a statement to others that justice was done here  
10 today in this courtroom and that justice for such heinous  
11 crimes will always be done in this court.

12 A maximum sentence is a true statement that the law  
13 will not give one inch, one quarter, one year to those who  
14 commit the most vile, deplorable and heinous crimes. It is  
15 time for Clif Seaway to face the consequences of his crimes,  
16 crimes that went on for thirteen years, crimes that affected  
17 so many children and so many families. And those  
18 consequences and this sentence need to be sure, just and  
19 unwavering. Simply put, the sentence needs to be 360 years.  
20 Thank you.

21 THE COURT: Thank you. Ms. Bianco.

22 MS. BIANCO: Thank you, Your Honor. May I use the  
23 podium?

24 THE COURT: Sure.

25 MS. BIANCO: Thank you. First, there is no

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1 question that what Clif did was terrible. We're not denying  
2 it. And he caused severe damage to the victims.

3 But before Clif Seaway was ever a defendant in this  
4 sex offense case, he was a victim himself. He was a victim  
5 for years of repeated sexual abuse and physical attacks. He  
6 had multiple abusers, including two family members. His  
7 abuse went on from ages two to thirteen. And his abuse was  
8 also brutal.

9 And it had a profound effect on Clif. He attempted  
10 suicide when he was young. He had alcoholism throughout his  
11 life. He has post traumatic stress disorder. And when he  
12 was eight years old, he tried to tell his mother what was  
13 going on. And at the time he tried to tell his mother was  
14 when his friend had died outside on the street in front of  
15 him, and he went to his mother and he told his mother this is  
16 what's happening, and she said, no, it didn't. When he tried  
17 to commit suicide and he went to a counselor, his father told  
18 him don't say anything. He told him to lie.

19 The government says there is no proof of this  
20 sexual abuse. Well, they themselves cite numerous studies in  
21 their memo of law about how children don't often report  
22 abuse. It's very, very common. And Clif tried to report it  
23 but nothing happened. So he did what many others do. He  
24 kept it to himself.

25 And as the Court knows from being on the bench for

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1 a number of years, people who are sexually abused often grow  
2 up to be sexual abusers. We see this on a regular basis.  
3 And it's not true all the time. Some individuals really rise  
4 and shine. And one of the victims here did rise and shine,  
5 and it's really miraculous to see somebody come out of it.  
6 But that's not the norm. That's rare and it didn't happen to  
7 Clif.

8 What Clif did is terrible. He knows that. He is  
9 not making excuses. We went to trial with the defense that  
10 not saying he didn't abuse the children, but that it wasn't  
11 for the purpose of a visual depiction, that he should be  
12 tried in state court for actually abusing the people, the  
13 victims.

14 And he was clear from the beginning that he was  
15 willing to plead guilty and accept responsibility. He asked  
16 for a thirty year sentence. He is 61 years old. Now to take  
17 a thirty year sentence, he may or may not have lived through  
18 it, but the government said no. They wanted a trial. And  
19 Clif's only choice was a life sentence or to go to trial.

20 THE COURT: I think my recollection is the  
21 government wanted forty years.

22 MS. BIANCO: Yeah. We asked for thirty, they asked  
23 for forty. He is 61, he certainly would not have survived.

24 THE COURT: The point I'm making, the government  
25 didn't ask for a trial, they asked for a plea to that

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1 particular sentence, and then he couldn't get it.

2 MS. BIANCO: Right. We offered the thirty years  
3 first and the government countered with forty.

4 The question for this Court to determine is whether  
5 Clif deserves any mercy at all. Now a thirty year sentence,  
6 if the Court were to impose that, he would be close to ninety  
7 upon his release. Now it's unlikely he would live that long,  
8 but even if he did, he would have life supervision. As the  
9 Court is aware, Clif has significant health problems, we've  
10 listed those in the sentencing memo. He was on Social  
11 Security disability for a number of years.

12 What Clif did is terrible, there is no dispute. He  
13 has hurt a lot of people, but he is a sick man also and he  
14 would like to get treatment. Now we're not asking the Court  
15 for a slap on the wrist. Thirty years and life supervision  
16 isn't a slap on the wrist. We would ask the Court to  
17 consider this so he has the smallest possibility of hope of  
18 some day being able to be out in society again with life  
19 supervision.

20 And, finally, we'd ask this Court to recommend a  
21 designation of a facility in Tucson, Arizona, which has a sex  
22 offender program. Mr. Seaway is very interested in  
23 participating in that sex offender program. He does want to  
24 get some help; it has never been offered before.

25 And with that, thank you, Your Honor.

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1 THE COURT: Thank you.

2 Mr. Seaway, is there anything you would like to say  
3 before I pronounce sentence?

4 THE DEFENDANT: Not at this time. Thank you, sir.

5 THE COURT: All right. Clif Seaway, the Court has  
6 reviewed and considered all of the pertinent information,  
7 including, but not limited to, the evidence presented at  
8 trial, the Presentence Investigation Report, the victim  
9 impact statements, submissions by counsel, the 2016 edition  
10 of the Sentencing Guidelines Manual, and the factors outlined  
11 in 18, United States Code, 3553(a).

12 I am adopting the factual information and guideline  
13 applications that are contained in the Presentence  
14 Investigation Report. I find you have a total offense level  
15 of 43. Your criminal history category is I. Therefore, your  
16 guideline range of imprisonment is life. However, since no  
17 count of conviction carries a potential life sentence, the  
18 guideline sentence is 4,320 months, or 360 years, which is  
19 the total punishment by combining the authorized maximum  
20 sentences for each count of conviction.

21 After careful consideration of the record and the  
22 arguments presented by both parties, I find no reason to  
23 depart or to vary from an advisory guideline sentence that  
24 calls for life imprisonment given my responsibility to impose  
25 a sentence that is sufficient, but not greater than

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1 necessary, to comply with the purposes of sentencing. In  
2 fact, I find a guideline sentence is necessary after  
3 considering your history and characteristics, the seriousness  
4 and the extent of your crimes against children, and the harm  
5 you caused to each of these children.

6 The guideline sentence provides just punishment for  
7 the thirteen years you victimized multiple children and it  
8 deters you and others from engaging in the same  
9 incomprehensible conduct, that being the rape, sexual abuse  
10 and the exploitation of very young children. The evidence in  
11 this case included victim and co-defendant statements, and  
12 your extensive production and collection of child pornography  
13 demonstrates without reservation you are a serial child  
14 predator who is a danger to society.

15 You victimized five children between 2001 and 2014.  
16 And some of your conduct occurred with two different women.  
17 You began abusing your victims at eleven days old, three  
18 years old, four years old, six years old, and ten years old.  
19 You sexually exploited the youngest three victims for several  
20 years and you subjected two of these victims to years of  
21 sexual abuse and rape. One victim was sexually assaulted by  
22 you from the time she was eleven days old until she was nine  
23 years old.

24 You memorialized your sexual conduct with the  
25 children by producing more than 6,700 sexually explicit files

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1 over a 13 year period. Your sexual fixation with children is  
2 underscored by your extremely large collection of internet  
3 child pornography and of non-pornographic depictions of  
4 children's body parts, as well as how you maintained and  
5 organized your collection while keeping several backup  
6 copies.

7 I find the number of victims, the age of these  
8 victims, the number of years you abused and exploited these  
9 victims, and the number of images and videos you produced as  
10 aggravating factors which taken as a whole call for nothing  
11 less than a guideline sentence.

12 I've also considered victim testimony and the  
13 victim impact statements in this case. Although the harm you  
14 caused is unmeasurable, the destruction you caused is  
15 indisputable. It is evident you had no regard for the  
16 children's well-being or how your actions would impact their  
17 lives forever. To this day you have not accepted  
18 responsibility for your conduct nor expressed any remorse or  
19 regret for your actions. In fact, your own psychological  
20 evaluation report states that while you did not fully  
21 comprehend the nature and consequences of your behavior at  
22 the outset or that it was wrong, you soon recognized the  
23 nature and consequences of your conduct and new it was wrong  
24 but continued to offend anyway.

25 Given your lack of remorse, the nature of your

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1 conduct and the available statistics and research regarding  
2 rates of recidivism for child pornography offenses, I find  
3 your risk of reoffending is high and that your risk will not  
4 decrease with age. As a repeat and dangerous sex offender  
5 who preys on the most vulnerable in our society, who fails to  
6 acknowledge the serious nature of his crimes, I find only a  
7 guideline sentence can ensure the safety of the community,  
8 reflect the seriousness of your offenses against children,  
9 provide just punishment for the extent of your crimes against  
10 children, and afford adequate deterrence.

11 A guideline sentence will also avoid sentence  
12 disparities among those like you who are among the most  
13 dangerous sex offenders in our society.

14 Therefore, having been found guilty of Counts One  
15 through Seven of Indictment 6:16-cr-339, and Counts One  
16 through Five of 16-cr-340, it is the judgment of this Court  
17 that you are hereby committed to the custody of the Bureau of  
18 Prisons to be imprisoned for a term of 4,320 months, or 360  
19 years.

20 This term consists of 360 months on each count of  
21 conviction, all to run consecutively to each other. As  
22 requested, I recommend to the Bureau of Prisons that you be  
23 placed at the federal correctional facility in Tucson to  
24 serve your sentence.

25 I have imposed a sentence with the understanding

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1 that you will not be released from prison. However, in the  
2 event you are released, you shall be placed on supervised  
3 release for a term of life on each count to run concurrently.  
4 If applicable, you shall not commit another federal, state or  
5 local crime, and you shall comply with the standard  
6 conditions that have been adopted by this Court. Due to the  
7 unlikelihood of your release, no special conditions will be  
8 imposed at this time.

9                   You shall also pay to the Clerk of the Court a  
10 special assessment of \$1,200, which is due immediately. I  
11 find, however, you do not have the ability to pay a fine or  
12 the additional special assessment; therefore, both are  
13 waived.

14                   You shall forfeit to the United States all right,  
15 title and interest in the items listed in the preliminary  
16 order of forfeiture which was signed by this Court February  
17 the 9th, 2018.

18                   Both parties have the right to appeal this sentence  
19 in certain limited circumstances. You are advised to consult  
20 with your attorney to determine whether or not an appeal is  
21 warranted. Any appeal must be filed within 14 days of the  
22 day of the judgment in this case.

23                   Will you take care of that, discuss that with him,  
24 Ms. Bianco?

25                   MS. BIANCO: Absolutely, Judge.

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1                   THE COURT: So you are now hereby remanded to the  
2 custody of the United States Marshal in accordance with the  
3 terms of this sentence.

4                   I believe that completes this matter.

5                   MS. FLETCHER: Yes, Your Honor. Thank you.

6                   MS. BIANCO: Your Honor, just for the record, we  
7 would object to the Court's not departing the sentence just  
8 based on our sentencing memo.

9                   THE COURT: Okay.

10                  THE CLERK: Court stands adjourned.

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C E R T I F I C A T I O N

I, EILEEN MCDONOUGH, RPR, CRR, Federal Official Realtime Court Reporter, in and for the United States District Court for the Northern District of New York, do hereby certify that pursuant to Section 753, Title 28, United States Code, that the foregoing is a true and correct transcript of the stenographically reported proceedings held in the above-entitled matter and that the transcript page format is in conformance with the regulations of the Judicial Conference of the United States.

Eileen McDonough

EILEEN MCDONOUGH, RPR, CRR  
Federal Official Court Reporter